

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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**SILVON S. SIMMONS,**

*Plaintiff,*

-VS-

**JOSEPH M. FERRIGNO, II, SAMUEL  
GIANCURSIO, MARK WIATER, CHRISTOPHER  
MUSCATO, ROBERT WETZEL, MICHAEL L.  
CIMINELLI, JOHN DOES 1-20, CITY OF  
ROCHESTER, SHOTSPOTTER, INC., SST, INC.,  
JOHN DOES 21-30, and PAUL C. GREENE,**

*Defendants.*

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**REPLY DECLARATION OF  
PAUL A. SANDERS  
IN SUPPORT OF MOTION TO COMPEL**

Civil Action No. 6:17-cv-6176-MAT

**PAUL A. SANDERS**, hereby declares as follows:

1. I am an attorney licensed to practice in the State of New York and in this Court and am a partner with Barclay Damon LLP, attorneys for the defendants, ShotSpotter, Inc. SST, Inc., and Paul C. Greene (“ShotSpotter Defendants”).

2. I make this Reply Declaration in further support of the ShotSpotter Defendants’ motion for an Order compelling Plaintiff Silvon S. Simmons to respond to the ShotSpotter Defendants’ Second Set of Interrogatories, dated February 1, 2021 (the “February 1, 2021 Interrogatories”).

3. Pursuant to FRCP 33, Plaintiff’s responses to the February 1, 2021 Interrogatories were due 30 days after service, on March 3, 2021. Plaintiff served his Objections and Responses to the February 1, 2021 Interrogatories (the “Interrogatory Responses”) approximately 90 days after service (60 days late) – on May 3, 2021. A copy of the Interrogatory Responses are attached as **Exhibit A**.

4. Plaintiff never requested an extension of time to answer the February 21, 2021 Interrogatories.

5. The Interrogatory Responses contain several general and specific objections.

6. Since Plaintiff failed to respond or object to the interrogatories by the FRCP 33 deadline (March 3, 2021), Plaintiff waived all the interposed objections (*see* Memorandum of Law at *Dkt.* 71, Attachment #7).

7. In light of the above, we respectfully request that the Court issue an Order, (1) finding that Plaintiff's objections to the February 1, 2021 Interrogatories have been duly waived, and (2) striking all of the general and specific objections contained in the Interrogatory Responses.

8. The ShotSpotter Defendants reserve their right to further challenge the admissibility of the Interrogatory Responses, or file further motions to compel discovery responses, prior to trial of this lawsuit.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

**DATED:** May 6, 2021

/s/ Paul A. Sanders

Paul A. Sanders